

Hon. Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

LUIS APONTE and JENNIFER SELF,

Plaintiffs,

vs.

MASON COUNTY FIRE PROTECTION
DISTRICT NO. 16 a/k/a WEST MASON
FIRE,

Defendant.

No. 3:21-cv-5459-TSZ

ANSWER AND AFFIRMATIVE
DEFENSES OF DEFENDANT MASON
COUNTY FIRE PROTECTION
DISTRICT NO. 16 A/K/A WEST
MASON FIRE
JURY DEMAND

COMES NOW the Defendant Mason County Fire Protection District No. 16 ("Fire District"), by and through the undersigned attorneys, and hereby answers the Plaintiffs' Complaint as follows:

I. ANSWER

1.1 Answering paragraph 1.1 of the Complaint, the Fire District is without knowledge sufficient to form a belief as to the truth of the allegations made therein and, therefore, denies the same.

1.2 Answering paragraph 1.2 of the Complaint, the Fire District is without knowledge sufficient to form a belief as to the truth of the allegations made therein and, therefore, denies the same.

1 1.3 Answering paragraph 1.3 of the Complaint, the Fire District admits it is a fire
2 protection district formed under the laws of the State of Washington. The remainder of this
3 paragraph is denied.

4 1.4 Answering paragraph 1.4 of the Complaint, the Fire District admits.

5 1.5 Answering paragraph 1.5 of the Complaint, the Fire District is without knowledge
6 sufficient to form a belief as to the truth of the allegations made therein and, therefore, denies the
7 same.

8 1.6 Answering paragraph 1.6 of the Complaint, the Fire District denies as to subject
9 matter jurisdiction over Causes of Action 3 and 4. The remainder of paragraph 1.6 is admitted.

10 1.7 Answering paragraph 2.1 of the Complaint, the Fire District incorporates all of its
11 previous admissions and denials thereto.

12 1.8 Answering paragraph 2.2 of the Complaint, the Fire District admits Plaintiff
13 Aponte was a volunteer firefighter/EMT from approximately July 2018 to January 17, 2020. The
14 remainder of this paragraph is denied.

15 1.9 Answering paragraph 2.3 of the Complaint, the Fire District admits Plaintiff Self
16 was a volunteer firefighter/EMT from approximately August 2019 to February 12, 2020. The
17 remainder of this paragraph is denied.

18 1.10 Answering paragraph 2.4 of the Complaint, including subsections 2.4.1 through
19 2.4.5, the Fire District admits.

20 1.11 Answering paragraph 2.5 of the Complaint, the Fire District admits that it required
21 the Plaintiffs to be mentally and physically capable of responding to emergencies within their
22 expertise. The remainder of paragraph 2.5 is denied.

23 1.12 Answering paragraph 2.6 of the Complaint, the Fire District admits.

24 1.13 Answering paragraph 2.7 of the Complaint, the Fire District denies.
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1 1.14 Answering paragraph 2.8 of the Complaint, the Fire District admits.

2 1.15 Answering paragraph 2.9 of the Complaint, the Fire District avers the SOP
3 Manual speaks for itself.

4 1.16 Answering paragraph 2.10 of the Complaint, the Fire District avers the SOP
5 Manual speaks for itself. To the extent an answer is required, it is denied.

6 1.17 Answering paragraph 2.11 of the Complaint, the Fire District denies.

7 1.18 Answering paragraph 2.12 of the Complaint, the Fire District denies.

8 1.19 Answering paragraph 2.13 of the Complaint, the Fire District denies.

9 1.20 Answering paragraph 2.14 of the Complaint, the Fire District denies.

10 1.21 Answering paragraph 2.15 of the Complaint, the Fire District denies.

11 1.22 Answering paragraph 2.16 of the Complaint, the Fire District denies.

12 1.23 Answering paragraph 2.17 of the Complaint, the Fire District denies.

13 1.24 Answering paragraph 3.1 of the Complaint, the Fire District incorporates all of its
14 previous admissions and denials thereto.

15 1.25 Paragraph 3.2 of the Complaint contains a statement of plaintiffs' legal position,
16 to which no answer is required. To the extent an answer is required, the Fire District denies the
17 same.

18 1.26 Answering paragraph 3.3 of the Complaint, the Fire District denies.

19 1.27 Answering paragraph 3.4 of the Complaint, the Fire District denies.

20 1.28 Answering paragraph 3.5 of the Complaint, the Fire District denies.

21 1.29 Answering paragraph 3.6 of the Complaint, the Fire District denies.

22 1.30 Answering paragraph 3.7 of the Complaint, the Fire District denies.

23 1.31 Answering paragraph 4.1 of the Complaint, the Fire District incorporates all of its
24 previous admissions and denials thereto.

1 1.32 Answering paragraph 4.2 of the Complaint, the Fire District admits.
2 1.33 Answering paragraph 4.3 of the Complaint, the Fire District denies.
3 1.34 Answering paragraph 4.4 of the Complaint, the Fire District denies.
4 1.35 Answering paragraph 4.5 of the Complaint, the Fire District denies.
5 1.36 Answering paragraph 4.6 of the Complaint, the Fire District denies.
6 1.37 Answering paragraph 4.7 of the Complaint, the Fire District denies.
7 1.38 Answering paragraph 5.1 of the Complaint, the Fire District incorporates all of its
8 previous admissions and denials thereto.
9 1.39 Answering paragraph 5.2 of the Complaint, the Fire District denies.
10 1.40 Answering paragraph 5.3 of the Complaint, the Fire District denies.
11 1.41 Answering paragraph 5.4 of the Complaint, the Fire District denies.
12 1.42 Answering paragraph 6.1 of the Complaint, the Fire District incorporates all of its
13 previous admissions and denials thereto.
14 1.43 Paragraph 6.2 of the Complaint contains a statement of plaintiffs' legal position,
15 to which no answer is required. To the extent an answer is required, the Fire District denies the
16 same.
17 1.44 Paragraph 6.3 of the Complaint contains a statement of plaintiffs' legal position,
18 to which no answer is required. To the extent an answer is required, the Fire District denies the
19 same.
20 1.45 Answering paragraph 6.4 of the Complaint, the Fire District denies.
21 1.46 Answering paragraph 6.5 of the Complaint, the Fire District denies.
22 1.47 Answering paragraph 6.6 of the Complaint, the Fire District denies.
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1 1.48 The remainder of the Complaint contains the plaintiffs' prayer for relief, to which
2 no answer is required. However, the Fire District denies that plaintiffs are entitled to any of the
3 relief sought therein.

4 **II. AFFIRMATIVE DEFENSES**

5 By way of further answer and as affirmative defense to the Complaint, the Fire District
6 alleges as follows:

7 2.1 Plaintiffs have failed to state a claim upon which relief can be granted.

8 2.2 Plaintiffs have unclean hands.

9 2.3 Plaintiffs' damages, if any, were caused in whole or in part by their own fault
10 and/or negligence.

11 2.4 The court lacks jurisdiction over the subject matter.

12 2.5 The relevant statute of limitations may have expired.

13 2.6 Plaintiffs have failed to mitigate their damages.

14 2.7 Plaintiffs' damages, if any, are barred by the doctrines of equitable estoppel and/or
15 waiver.

16 2.8 Plaintiffs received payment.

17 2.9 Plaintiffs' damages, if any, are barred by accord and satisfaction.

18 2.10 Plaintiffs may have committed misrepresentation and/or fraud.

19 **III. RESERVATION OF RIGHTS**

20 3.1 The Fire District expressly reserves the right to plead further answer, affirmative
21 defenses, counterclaims, cross-claims, and/or third-party claims as investigation and discovery
22 may warrant.

23 **IV. DEFENDANT'S PRAYER FOR RELIEF**

24 Pursuant to the above, the Fire District respectfully requests the following relief:
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- 1 4.1 Dismissal of the Plaintiffs' complaint with prejudice;
2 4.2 An award of defendant's reasonable attorneys' fees and costs;
3 4.3 Leave to Amend the Answer to conform to the proof discovered or established at
4 trial; and
5 4.4 Any other relief the Court finds just and equitable under the circumstances.
6

7 DATED this 23rd day of July, 2021.

8 LEE SMART, P.S., INC.

9 By: /s/ Carinne E. Bannan

10 Steven G. Wraith, WSBA No. 17364

11 Carinne E. Bannan, WSBA No. 52564

12 Lee Smart, P.S., Inc.

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15 (206) 262-8300

16 sgw@leesmart.com

17 ceb@leesmart.com

18 Of Attorneys for Defendant

19 Mason County Fire Protection District No. 16

20 a/k/a West Mason Fire

21 CERTIFICATE OF SERVICE

22 I certify that on the date shown below a copy of the foregoing was served by electronic
23 service through the Court's CM/ECF application on the following:

24 Mr. Andrew P. Green

25 Green & Wilmot, PLLC

1919 N Pearl St Ste B-3

Tacoma, WA 98406

andy@green-wilmot.com

DATED this 23rd day of July, 2021.

/s/ Vonnie Fredlund

Vonnie Fredlund, Legal Assistant